

RECEIVED and FILED by the
NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS
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JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street, Fifth Floor
Post Office Box 45029
Newark, New Jersey 07101
Attorney for State Board of Veterinary Medical Examiners

By: **Olga E. Bradford**
Deputy Attorney General
Telephone No: (973) 648-3696

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

IN THE MATTER OF THE
SURRENDER OF THE LICENSE OF

FRANK S. MITTERMAN, D.V.M.
License # 29V100182700

TO PRACTICE VETERINARY MEDICINE
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER
VOLUNTARY SURRENDER
OF LICENSURE

The New Jersey State Board of Veterinary Medical Examiners ("Board") received information that indicated that Frank S. Mitterman, D.V.M., ("Dr. Mitterman" or "respondent"), has been involved in alcohol use and/or substance abuse, within the last

three hundred sixty-five (365) days, that is likely to impair the ability to practice the profession with reasonable skill and safety within the meaning of N.J.S.A. 45:1-21(l).

Dr. Mitterman has acknowledged the conduct as well as the need for treatment. Respondent has agreed to voluntarily surrender his license to practice veterinary medicine in the State of New Jersey without prejudice and in accordance with the terms of this Order. Dr. Mitterman waiving any right to a hearing in this matter and the Board finding the terms of this Consent Order to be adequately protective of the public health, safety and welfare;

IT IS, therefore, on this th 28 day of ^{MAY} ~~JUNE~~ 2014,

HEREBY ORDERED AND AGREED THAT:

1. The license of Frank S. Mitterman, D.V.M., to practice veterinary medicine is surrendered effective immediately, for a minimum period of six months from the entry of this Order and until further order of the Board. Respondent shall deliver his original license for the current renewal period, his CDS registration, his DEA registration, and prescription pads bearing his name, to Jonathan Eisenmenger, Executive Director, New Jersey Board of Veterinary Medical Examiners, 124 Halsey Street, Post Office Box 45020, Newark, New Jersey, 07101.

2. Respondent shall not practice veterinary medicine in this State until further order of the Board. During the period of surrender, respondent shall not be physically present in any veterinary medical office in this State except to receive veterinary medicine treatment for an animal he owns by another licensed veterinarian.

3. Pending further order of the Board, respondent, at his expense, shall begin his participation with the Professional Assistance Program (PAP) and shall comply with the recommendations for treatment, including but not limited to monthly face-to-face contact with representatives from that program, attendance at support groups, including NA or AA, and urine monitoring as directed by the PAP, therapy with a psychiatrist or therapist. If respondent discontinues participation with the Professional Assistance Program or fails to comply with the conditions imposed by the program or outlined in this consent order without obtaining approval of the Board and the Professional Assistance Program, he shall be deemed in violation of this Order.

4. Respondent shall abstain from the use of all psychoactive substances, unless prescribed by a treating physician for a documented medical condition with prior notification to the Executive Medical Director of the Professional Assistance Program of the diagnosis and prescribed medications. In addition, respondent shall advise any and all treating physicians and/or dentists of his history of alcohol/substance abuse.

5. The Professional Assistance Program shall submit quarterly reports, including urine results, to the Board regarding respondent's participation and compliance with all requirements of the PAP and this order. If respondent has a positive urine, misses an appointment without consent, or has a lapse or slip in his recovery, or if respondent terminates treatment with his psychiatrist or therapist, or his participation with the PAP, the PAP shall immediately inform the Board. For purposes of this paragraph,

"Immediately" shall mean reporting the information orally within 24 hours and following up with a written report within 48 hours.

6. (a) Any failure by respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from the Professional Assistance Program. Respondent shall notify the Professional Assistance Program if he will be out of the State for any reason, so that the program may make a determination regarding alternate testing.

(b) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.003 shall create a rebuttable presumption of a confirmed positive urine test. Any such result shall be followed immediately by a confirming GC/MS test.

(c) Respondent shall familiarize himself with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

(d) The Professional Assistance Program may, after notifying the Board, modify the frequency of testing or method of testing during the monitoring period.

7. Respondent shall provide any and all releases to any and all parties who are participating in a monitoring, treatment, or other program as outlined in this order, as may

be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. Respondent agrees that any information received by the Board regarding respondent's treatment or participation in a monitoring program may be used in connection with any proceedings pertaining to his license.

8. Prior to any restoration of his license, respondent shall:
 - a. Affirmatively demonstrate a minimum of six months of abstaining from use of any psychoactive substances, including alcohol, except as permitted by this order;
 - b. Request an appearance before the Board or a committee of the Board to discuss readiness to reenter the practice of veterinary medicine. At that time respondent shall be prepared to propose his plans for future practice in New Jersey;
 - c. Demonstrate to the satisfaction of the Board that he is physically and psychologically fit and that he is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety, and welfare, and that he is not then suffering from any impairment or limitation resulting from the use of or in possession of any controlled dangerous substance, whether legal or illegal, which could affect his practice.
 - d. Provide the Board with reports from each and every mental health professional (including but not limited to: psychologists, counselors, therapists, psychiatrists) who have participated in respondent's care and/or

treatment for the disability in this matter during the period of time from his entry into treatment to his appearance.

- e. Provide the Board with a report from the Professional Assistance Program detailing the nature and extent of his involvement with that entity, including a full accounting of all urine monitoring.
- f. Affirmatively establish his fitness, competence, and capacity to re-enter the active practice of veterinary medicine within New Jersey, including an accounting of all continuing education courses completed while his license was surrendered.
- g. Provide the Board with a full account of conduct during the intervening period of time from entry into treatment to his appearance pursuant to this Order.

9. Following review of all relevant documents submitted and respondent's testimony, if any, the Board, in its sole discretion, will determine whether and under what conditions respondent may return to practice. The Board may require respondent to submit to an independent medical and psychiatric evaluation with Board-approved professionals prior to rendering its decision.

10. Nothing in this Consent Order shall be deemed to preclude the Board from taking any action it deems appropriate should the Board's review of information cause it to determine that such action is warranted. Entry of this order is without prejudice to further action by other law enforcement entities.

NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

By: Mark W. Logan VMD
Mark W. Logan, V.M.D.
Board President

I have read and understand this
Consent Order and agree
to be bound by its terms. I consent
to the entry of this order.

Frank S. Mitterman DVM
FRANK S. MITTERMAN, D.V.M.

DATED: 5/19/14

I have read the terms of this order and
agree on behalf of the Professional
Assistance Program to comply with
the terms pertaining to the PAP.

LE Baxter
LOUIS E. BAXTER, Sr., M.D.
Executive Medical Director
Professional Assistance Program

5/28/14

DATED: